



WORTHING BOROUGH
C O U N C I L

16 August 2023

Worthing Licensing and Control Sub-Committee B

Date:	24 August 2023
Time:	7.00 pm
Venue:	Gordon Room, Worthing Town Hall

Committee Membership: Councillors Helen Abrahams, Henna Chowdhury (Chair) and Richard Nowak

Agenda

Part A

4. Licensing Act 2003 – Licensing Act 2003 – Application for a variation to a Premises Licence (Pages 3 - 10)

To consider a report by the Director for Sustainability & Resources, copy attached as item 4

Recording of this meeting

Please note that this meeting is being audio live streamed and a recording of the meeting will be available on the Council's website. This meeting will remain on our website for one year and will be deleted after that period. The Council will not be recording any discussions in Part B of the agenda (where the press and public have been excluded).

For Democratic Services enquiries relating to this meeting please contact:	For Legal Services enquiries relating to this meeting please contact:
Katy McMullan Democratic Services Officer 01903 221006 katy.mcmullan@adur-worthing.gov.uk	Caroline Perry Senior Lawyer & Deputy Monitoring Officer 01903 221081 caroline.perry@adur-worthing.gov.uk

Duration of the Meeting: Three hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.

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ADUR & WORTHING
COUNCILS

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Licensing Unit
Adur & Worthing Councils

By email

Date: 18th August 2023
Service: Public Health & Regulation
Tel: 01903 221064
Email: publichealth.regulation@adur-worthing.gov.uk

Our Reference:

Licensing Act 2003
Premises Licence/Variation Application
Angels Bar and Club, 10 High Street, Worthing

I write further to my representation dated the 26th July 2023.

In view of the number of residents' representations, we will not withdraw our original representation, but instead provide a detailed updated representation describing a proposed condition for agreement by the Committee, should they be minded to grant the variation.

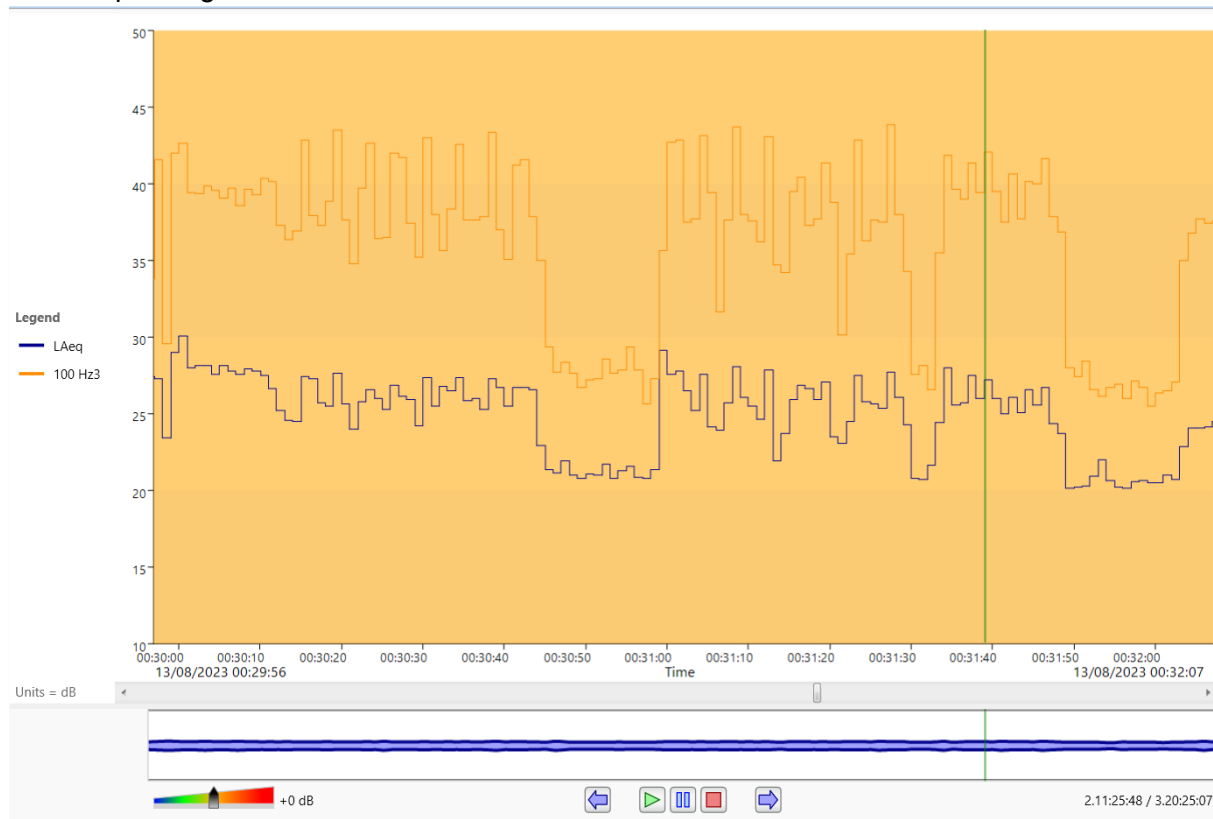
I met with the applicant's representatives at the premises on the 16th June, discussed the noise issues and gave them the opportunity to resolve the noise issues informally. Since then noise has continued to be a problem and a Noise Abatement Notice was issued on the 26th July 2023. I returned from holiday last week and having discussed, with colleagues, the ongoing steps being taken in an attempt to resolve the noise from the premises and having listened to the latest noise recordings taken from a nearby residents property over the weekend commencing the 11th August 2023, it would appear we are no nearer to resolving the matter.

I have copied a screenshot of just one of the noise recordings taken over the weekend of the 11th August as an example below. You can see the low frequency bass of the music at 100Hz in orange. The accompanying audio presents a 'bum bum bum', followed by a short lull in the beat before recommencing. You can see quite clearly as the beat stops during the lull, the total noise level in blue drops mirroring the lull. There are two lulls shown in the time history. The 100Hz is a linear measurement of that $\frac{1}{3}$ octave frequency band, whereas the total noise measurement is an A-weighted Leq¹ of the overall sound energy. A weighting corrects for how the ear responds to loudness of noise at different frequencies.

For comparison with the LAeq, I added the weighting to the 100Hz measurement. The maximum beat at this frequency is 24dB(A), the minimum level in this $\frac{1}{3}$ octave band during the lull in beat is 8dB(A). That is a 16dB(A) difference the effect of which is clearly evident on the total LAeq of the music. You can clearly hear the music from the recordings, but you can also visually see the effect this bass is having on the noise level in the room demonstrating

¹ The Leq is the average sound pressure level during a period of time. Leq is often described as the average noise level during a noise measurement, which although not technically correct, is often the easiest way to think of Leq.

that the noise level is the result of the music rather than from other ambient noise sources such as passing traffic.



To date, my main concern has been the ‘suck it and see’ approach being taken by the applicant to try and resolve the noise. Acoustics is a specialist subject and requires specialist equipment that can accurately measure and record the appropriate noise parameters. It also needs a practitioner who understands the subject and the objectives to be achieved for the solution(s) to be found. The problem at hand needs a robust scientific approach otherwise we are just using up valuable time and prolonging the nuisance being caused to the neighbouring residents.

Therefore, should the Committee be minded to grant the requested extended hours, I would like to amend the suggested condition I put forward to members of the licensing committee in my previous representation. This condition would defer any extended hours until the noise problem is resolved so as not to exacerbate matters.

For this purpose I would suggest the following condition:

Before any variation of operating hours commences, a suitably qualified acoustician shall be employed to carry out a noise assessment of the entertainment noise and produce a report setting out a scheme to achieve the following noise criteria.

- ***The L_{Aeq} of the entertainment noise shall not exceed the representative background noise level L_{A90} in any neighbouring property, without the entertainment noise, and***

- ***the L_{10} of the entertainment noise shall not exceed the representative background noise level L_{90} in any neighbouring property, without the entertainment noise, in any 1/3 octave band between 40Hz and 160Hz.***

The proposed scheme shall be submitted to and agreed with the licensing authority before being implemented.

Following approval and completion of the scheme, a test shall be undertaken by a suitably qualified acoustician to demonstrate that the scheme is effective and meets the aforementioned criteria. Should this test show that the criteria have not been met, a further scheme capable of achieving the criteria shall be submitted to and agreed with the Licensing Authority and further tested upon completion.

Thereafter, the final and tested scheme shall be maintained in order to comply with the stated criteria, which will remain conditions of the licence.

For this purpose ‘suitably qualified’ means someone who has met the qualification criteria to be a member of the Institute of Acoustics or the Association of Noise Consultants.

As discussed in my earlier representation, I expect the scheme to consist of a combination of sound insulation works and noise control at source using a noise limiting compressor system. An appropriate audio compressor can be used to reduce problem 1/3 octave frequencies.

I understand that my colleague Nadeem Shad has already raised with the applicant the matter of employing a suitably qualified consultant.

I have put forward the above mentioned condition to the applicant in mediation, which he has accepted. I attach the e-mail chain below for your information.

Yours faithfully,

Michael Lavender
Environmental Health Officer

History

Following investigation into a number of complaints about loud music affecting residential premises within the vicinity of Angels Bar, 10 High Street, Worthing, an Abatement Notice under Section 80 of the Environmental Protection Act 1990 was served on Mr Omar Mohammad Rafique on 26 July 2023. The notice required Mr Rafique to abate the nuisance within 48 hours. Whilst no steps were specified within the notice, the cover letter contained some guidance. A copy of the Notice and cover letter are attached.

Breaches of an abatement notice can result in prosecution in the Magistrates Court where an unlimited fine can be imposed upon conviction.

Timeline of complaints and Actions

Date	Action
13/02/23	Initial Complaint Received from a flat in [REDACTED] property, reports of loud music from 22:30 - 03:00
31/03/23	Second Complaint received from a resident of [REDACTED] complaining about excessive noise from the club from 23:00 - 03:00, especially the bass.
05/04/23	Letter sent to Angels to make them aware of the complaints and to remind them of the existing licencing conditions set with the purpose of reducing noise impact upon neighbours.
19/05/23	Third Complaint received from a resident of [REDACTED] of noise from the club from 23:00 - 03:00, especially the bass
20/05/23	Fourth Complaint received from a resident of [REDACTED] about excessive noise from the club from 23:00 - 03:00, especially the bass
24/05/23 to 01/06/23	Nuisance recorder installed in property on [REDACTED] so that a resident could record noise from the club which was audible within their property from 23:00 - 03:00. This showed music was audible, particularly the bass.
07/06/23	Fifth complaint received from a resident of [REDACTED] about noise from the club from 23:00 - 03:00, especially the bass
08/06/23	A letter was sent to Mr Rafique stating that we are 'minded to' serve an abatement notice and requesting a meeting with him and any relevant staff.
15/06/23	Meeting held at Angels with the resident DJ (Paul), Mr Rafique's son and his sound engineer to discuss the issues.
07/07/23	Email sent to Mr Rafique to confirm that we are still receiving complaints and that the noise is still an issue.

07/07/23	Visits to undertake noise monitoring in a property to the rear of the premise at 23:30-00:15 by OR and EH. Upon entering the property the noise was audible within the bedroom, the music became more audible at 23:50 and then again at 00:05, it was of both OR and EH opinion that it would be extremely difficult to sleep within this room from Thursday-Saturday. After visiting the property a walk around was conducted, during this it was noted the noise was breaking through several weak points at the rear of the property (two sets of fire doors and a vent).
11/07/23	Email sent to Mr Rafique to advise him that the noise was still an issue and to highlight possible areas of concern (e.g. fire doors to the rear, vent into the utility room), this was acknowledged.
15/07/23	Sixth complaint received from a resident of [REDACTED] about excessive noise from the club from 23:00 - 03:00, especially the bass.
19/07/23	Email from Mr Rafique to say that he intended to have works completed within a few days (21st/22nd), reply sent to say if works could not be completed before opening for the weekend to turn the music volume down to help mitigate any impacts.
23/07/23	Further monitoring undertaken by Officers at three properties, one [REDACTED] and two to the rear of the premises in [REDACTED] between 23:45 - 01:15. This revealed unreasonable noise likely to affect sleep, particularly the beat and bass. Again a walk around was conducted, during which it was again noted that noise was breaking through several weak points at the rear of the property (fire doors and a vent) as well as being transmitted through the structure into the adjacent and connected flats.
26/07/23	Statutory Nuisance Abatement Notice Served on Mr Rafique
26/07/23	Email from Mr Rafique to say some of his works to Angels will be completed by 27th/28th July.
10/08/23	Officers met with Mr Rafique at Angels to view the work he had completed so far - thin plastic insulation "seals" around door frames at the rear; auto close mechanism on the door leading to a washing up room at the rear which also had a vent in the rear wall. Mr Rafique said that he was removing speakers from the party wall adjoining the attached flats and relocating them on the balcony, as well as fitting anti vibration mounts. We recommended he employ the services of an independent qualified acoustician to provide expert input on a scheme of measures, he said he had spoken to one but was reluctant to spend the quoted £3000.
10/08/23 - 14/08/23	Noise recording device installed in a property in [REDACTED] to capture the current level of noise disturbance. The recordings made showed no improvement to those taken on 23/07/23.

Since the notice was served we have received further complaints from four separate households about late night noise disturbance from music played at Angels on Friday and Saturday nights on the following dates:

July - 28,29

August 4,5,11,12,18,19



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Mr Omar Rafique
Angels Bar And Club
10 High Street
Worthing
West Sussex
BN11 1NU

Date: 26-07-2023
Service: Public Health & Regulation
Tel: 01903 221064
Email: publichealth.regulation@adur-worthing.gov.uk

Our Reference: 

Dear Mr Rafique,

**Environmental Protection Act 1990 Section 80
Statutory Nuisance – Angels Bar & Club, 10 High Street, Worthing**

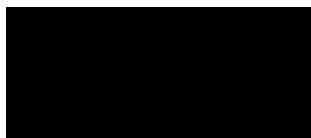
Following investigation into a number of complaints from nearby residential occupiers regarding loud music from Angels Bar and Club, this authority is satisfied that the noise amounts to a Statutory Nuisance to neighbouring property occupiers. We therefore serve upon you the enclosed Abatement Notice.

You will see that the notice requires you to abate the nuisance. How you achieve compliance with the Notice is up to you and I strongly urge you to seek advice from an independent professionally qualified acoustic consultant. Options available to you include and are not limited to turning the volume of the music down, reducing the low frequency noise output, using a noise limiting device and undertaking acoustic insulation to the fabric of the building. We would be happy to assist in any investigation the acoustic consultant undertakes, including facilitating access to affected properties. In the meantime you should reduce the volume and lower frequencies of any music played.

I must advise you that failure to comply with the Notice without reasonable excuse is a criminal offence and may result in prosecution in the Magistrates' Court, where a fine may be imposed upon conviction.

If you wish to discuss this further please contact me.

Yours sincerely



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